

Council Directive 2006/112/EC of 28 November
2006 on the common system of value added tax

TITLE IX

EXEMPTIONS

CHAPTER 4

Exemptions for intra-community transactions

Section 1

Exemptions related to the supply of goods

Article 138

1 Member States shall exempt the supply of goods dispatched or transported to a destination outside their respective territory but within the Community, by or on behalf of the vendor or the person acquiring the goods, for another taxable person, or for a non-taxable legal person acting as such in a Member State other than that in which dispatch or transport of the goods began.

2 In addition to the supply of goods referred to in paragraph 1, Member States shall exempt the following transactions:

- a the supply of new means of transport, dispatched or transported to the customer at a destination outside their respective territory but within the Community, by or on behalf of the vendor or the customer, for taxable persons, or non-taxable legal persons, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1), or for any other non-taxable person;
- b the supply of products subject to excise duty, dispatched or transported to a destination outside their respective territory but within the Community, to the customer, by or on behalf of the vendor or the customer, for taxable persons, or non-taxable legal persons, whose intra-Community acquisitions of goods other than products subject to excise duty are not subject to VAT pursuant to Article 3(1), where those products have been dispatched or transported in accordance with Article 7(4) and (5) or Article 16 of Directive 92/12/EEC;
- c the supply of goods, consisting in a transfer to another Member State, which would have been entitled to exemption under paragraph 1 and points (a) and (b) if it had been made on behalf of another taxable person.

Article 139

1 The exemption provided for in Article 138(1) shall not apply to the supply of goods carried out by taxable persons who are covered by the exemption for small enterprises provided for in Articles 282 to 292.

Nor shall that exemption apply to the supply of goods to taxable persons, or non-taxable legal persons, whose intra-Community acquisitions of goods are not subject to VAT pursuant to Article 3(1).

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2 The exemption provided for in Article 138(2)(b) shall not apply to the supply of products subject to excise duty by taxable persons who are covered by the exemption for small enterprises provided for in Articles 282 to 292.

3 The exemption provided for in Article 138(1) and (2)(b) and (c) shall not apply to the supply of goods subject to VAT in accordance with the margin scheme provided for in Articles 312 to 325 or the special arrangements for sales by public auction.

The exemption provided for in Article 138(1) and (2)(c) shall not apply to the supply of second-hand means of transport, as defined in Article 327(3), subject to VAT in accordance with the transitional arrangements for second-hand means of transport.

Section 2

Exemptions for intra-Community acquisitions of goods

Article 140

Member States shall exempt the following transactions:

- (a) the intra-Community acquisition of goods the supply of which by taxable persons would in all circumstances be exempt within their respective territory;
- (b) the intra-Community acquisition of goods the importation of which would in all circumstances be exempt under points (a), (b) and (c) and (e) to (l) of Article 143;
- (c) the intra-Community acquisition of goods where, pursuant to Articles 170 and 171, the person acquiring the goods would in all circumstances be entitled to full reimbursement of the VAT due under Article 2(1)(b).

Article 141

Each Member State shall take specific measures to ensure that VAT is not charged on the intra-Community acquisition of goods within its territory, made in accordance with Article 40, where the following conditions are met:

- (a) the acquisition of goods is made by a taxable person who is not established in the Member State concerned but is identified for VAT purposes in another Member State;
- (b) the acquisition of goods is made for the purposes of the subsequent supply of those goods, in the Member State concerned, by the taxable person referred to in point (a);
- (c) the goods thus acquired by the taxable person referred to in point (a) are directly dispatched or transported, from a Member State other than that in which he is identified for VAT purposes, to the person for whom he is to carry out the subsequent supply;
- (d) the person to whom the subsequent supply is to be made is another taxable person, or a non-taxable legal person, who is identified for VAT purposes in the Member State concerned;
- (e) the person referred to in point (d) has been designated in accordance with Article 197 as liable for payment of the VAT due on the supply carried out by the taxable person who is not established in the Member State in which the tax is due.

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Section 3

Exemptions for certain transport services

Article 142

Member States shall exempt the supply of intra-Community transport of goods to and from the islands making up the autonomous regions of the Azores and Madeira, as well as the supply of transport of goods between those islands.